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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 GREGORY JOSEPH OTT,

12 Petitioner,

13 vs.

14 TERRI GONZALEZ, Warden,

15 Respondent.
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CASE NO. CV 11-04225 PSG (RZ)

ORDER SUMMARILY DISMISSING
PETITION

17 The petitioner in this habeas corpus action pursuant to 28 U.S.C. § 2254,
18 Gregory Joseph Ott, is a state inmate. He challenges a 2008 prison disciplinary finding
19 whereby, in addition to other punishments, he lost “good time” credit towards completion
20 of his sentence. Petitioner explains that an attorney, appointed to assist him in challenging
21 that finding in a state trial court in Napa County, failed to file a traverse in that court, thus
22 causing Petitioner to lose that challenge. Petitioner asserts here that he was denied
23 effective assistance of counsel in violation of his federal constitutional rights. Because
24 that claim is clearly legally infirm, as explained below, the Court will dismiss the action
25 summarily.

26 Rule 4 of the Rules Governing Section 2254 Cases in the United States
27 District Courts provides in part that “[i]f it plainly appears from the face of the petition and
28 any exhibits annexed to it that the petitioner is not entitled to relief in the district court, the

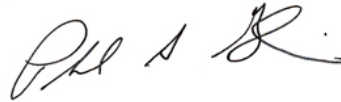
1 judge shall make an order for its summary dismissal and cause the petitioner to be
2 notified.”

3 Absent a constitutional right to counsel in the first place, there can be no
4 deprivation of any right to effective assistance of counsel. *See Wainwright v. Torna*, 455
5 U.S. 586, 587-88, 102 S.Ct. 1300, 71 L.Ed.2d 475 (1982) (*per curiam*). Inmates have no
6 right to retained or appointed counsel at prison disciplinary proceedings. *See Baxter v.*
7 *Palmigiano*, 425 U.S. 308, 315, 96 S.Ct. 1551, 47 L.Ed.2d 810 (1976). Because Petitioner
8 had no right to counsel at (or after) his disciplinary proceedings, he cannot demonstrate a
9 violation of such a right. His ineffective-assistance claim fails as a matter of law.

10 For the foregoing reasons, the Court DISMISSES this action.

11 IT IS SO ORDERED.

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13 DATED: May 27, 2011

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PHILIP S. GUTIERREZ
UNITED STATES DISTRICT JUDGE